

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gevas et al.  
Serial No.: : 09/700,402  
Filed: : November 14, 2000  
International Application No. : PCT/US99/10750  
International Filing Date : May 14, 1999  
International Publication No. : WO99/59628  
For : "COMBINATION THERAPY FOR THE TREATMENT OF  
TUMORS"  
Formalities Examiner: : Lamont Hunter

"Express Mail" Label No. EL608115028US.

Date of Deposit May 14, 2003. I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the:

Mail Stop PCT  
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P.O. Box 1450  
Alexandria, VA 22313-1450

BERNARD MAYS  
(Type or print name of person mailing paper or fee)

Bernard Mays  
(Signature of person mailing paper or fee)

**REPLY TO NOTIFICATION OF DEFECTIVE RESPONSE**

Mail Stop PCT  
Honorable Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

Sir:

This is submitted in response to the Notification of Defective Response ("Notification") mailed on April 15, 2003 in the above-identified application. The aforementioned Notification (copy enclosed) contains several erroneous assertions.

The Notification indicates that Applicant's response filed on 05/04/2001 to the Notification of Missing Requirements dated 12 December 2000 was received by the Elected Office. The Notification states, however, that the Missing Requirements regarding the Sequence Listing set forth in the Notification of Missing Requirements have not been completed.

Applicants assert that the Sequence Listing was submitted to the Elected Office at the time the application was filed as evidenced by the transmittal letter (copy attached) and the return-receipt postcard stamped by the U.S. Designated Office of the PCT ("US-DO"), which indicates that the Sequence Listing including diskette, was received by the US-DO. Additionally, the original Notification of Missing Requirements (copy attached) did not state that a Sequence Listing was missing from the application papers. Moreover, the paper copy of the Sequence Listing is found at page 22 of the Specification as filed. The enclosed paper copy and Computer Readable Form ("CRF") of the Sequence Listing have been updated to include the serial number of the application. The undersigned agent for applicant states that the content of the paper and CRF copies of the Sequence Listing are the same.

The Notification also states that the original Specification and other items were filed on 05/04/2001. This is in error. The subject patent application was filed by express mail (EL 286880070US) as national phase of PCT/US99/10750 which was received by the PCT/PTO on November 14, 2000, and confirmed by the US-DO date-stamped postcard (copy enclosed) indicating receipt of the Specification, Claims and Abstract, three sheets of drawings, including

Sequence Listing (p. 22 of the Specification), small entity statement, request under 37 CFR 1.53(b) for new application, computer readable sequence listing, preliminary amendment, copy of PCT publication with copy of the international search report and copies of references. The Notification indicated that the oath or declaration of the inventors was the only missing item.

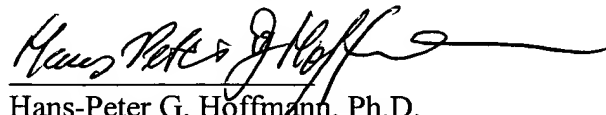
The Notification of Missing Requirements was allegedly mailed December 12, 2000, but it was actually not received by Applicant. Applicant's inquiry subsequently succeeded in obtaining a copy of the Notification from the USPTO (Examiner: Lamont Hunter) by facsimile on May 2, 2001. A prompt reply to the Notice with the enclosed declaration/power of attorney document, executed by the inventors, and a petition for extension of time and the payment of surcharge was submitted to the PCT/PTO timely on May 2, 2001, and was received by the PCT/PTO on May 4, 2001.

Therefore, Applicant respectfully requests that the proper filing date of November 14, 2000 be corrected in the above-identified Serial No. 09/700,402.

No fee should be due with this response. However, the Commissioner is hereby authorized to charge any required fee to Deposit Account No. 23-1703.

Dated: May 14, 2003

Respectfully submitted,



Hans-Peter G. Hoffmann, Ph.D.

Reg. No. 37,352

(212) 819-8840

Applicants' Agent

Customer No. 007470

(212) 819-8200

Enclosures



UNITED STATES PATENT AND TRADEMARK OFFICE

 Commissioner for Patents, Box PCT  
 United States Patent and Trademark Office  
 Washington, D.C. 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/700,402	Philip C. Gevas	1102865-0034

INTERNATIONAL APPLICATION NO.

PCT/US99/10750

I.A. FILING DATE

PRIORITY DATE

05/14/1999

05/15/1998

CONFIRMATION NO. 3611

371 FORMALITIES LETTER



\*OC000000009809694\*

 007470  
 WHITE & CASE LLP  
 PATENT DEPARTMENT  
 1155 AVENUE OF THE AMERICAS  
 NEW YORK, NY 10036

Date Mailed: 04/15/2003

5/15/2003

## NOTIFICATION OF DEFECTIVE RESPONSE

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- Indication of Small Entity Status
- Priority Document
- Original Specification filed on 05/04/2001
- Drawings filed on 05/04/2001
- Claims filed on 05/04/2001
- Oath or Declaration filed on 05/04/2001
- Initial Application Filing Fees filed on 05/04/2001
- Small Entity Statement filed on 05/04/2001
- Copy of the International Application filed on 05/04/2001
- Copy of the International Search Report filed on 05/04/2001
- Copy of IPE Report filed on 05/04/2001
- Preliminary Amendments filed on 05/04/2001
- Oath or Declaration filed on 05/04/2001
- Small Entity Statement filed on 05/04/2001
- Copy of references cited in ISR filed on 05/04/2001
- U.S. Basic National Fees filed on 05/04/2001
- Power of Attorney filed on 05/04/2001

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 APR 21 2003

Applicant's response filed 05/04/2001 is hereby acknowledged. The following requirements set forth in the NOTIFICATION of MISSING REQUIREMENTS mailed 12/12/2000 have not been completed.

Applicant is required to complete the response within a time limit of ONE MONTH from the date of this Notification or within the time remaining in the response set forth in the Notification of Missing Requirements, whichever is the longer. No extension of this time limit may be granted under 37 CFR 1.136, but the period for response set in the Notification of Missing Requirements may be extended under 37 CFR 1.136(a).

The following items **MUST** be furnished within the period set forth below:

09/700402



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS  
Box PCT  
Washington, D.C. 20231

1102865-0034

09/700,402

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
007470	5071	PCT/US99/10750
WHITE & CASE LLP PATENT DEPARTMENT 1155 AVENUE OF THE AMERICAS NEW YORK NY 10036		
INTERNATIONAL APPLICATION NO.		
05/14/99 05/14/98		
L.A. FILING DATE PRIORITY DATE		
12/12/00		

DATE MAILED: 12 DEC 2000

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as

- ☐ a Designated Office (37 CFR 1.494),  
☐ an Elected Office (37 CFR 1.495);

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☐ a non-English language.

☒ English.

☐ Translation of the international application into English.

☐ Oath or Declaration of inventor(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☒ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☒ Preliminary amendment(s) filed NOV. 00 and                     .

☐ Information Disclosure Statement(s) filed                      and                     .

☐ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed                     .

☒ Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☐ and copies of the references cited therein.

☐ Other:

2. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date.

☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$                      as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

**ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes **MUST** be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

**A copy of this notice MUST be returned with this response.**

Enclosed: ☐ PCT/DO/EO/917

☐ Notice of Defective Translation

☐ Lemon Header

☐ PTO-875

☐ National Stage Processing

FORM PCT/DO/EO/905 (December 1997)

Telephone: (703) 305-3088

WHITE & CASE LLP  
PATENT DEPARTMENT

MAY 02 2001

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FORM PTO-1390  
(REV 10-2000)

DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE

ATTORNEY'S DOCKET NUMBER

TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

1102865-0034

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

INTERNATIONAL APPLICATION NO.  
PCT/US99/10750INTERNATIONAL FILING DATE  
14 May 99PRIORITY DATE CLAIMED  
14 May 98

TITLE OF INVENTION COMBINATION THERAPY FOR THE TREATMENT OF TUMORS

APPLICANT(S) FOR DO/EO/US Gevas, et al.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☒ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☐ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to promptly begin national examination procedures (35 U.S.C. 371)f
4. ☐ The US has been elected by the expiration of 19 months from the priority date (PCT Article 31).
5. ☒ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☒ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Of fice (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)( 2)).
7. ☒ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☒ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Repo rt under PCT Article 36 (35 U.S.C. 371(c)(5)).

Items 11 to 16 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☐ An assignment document for recording. A separate cover sheet in compliance wit h 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.  
☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
14. ☐ A substitute specification.
15. ☐ A change of power of attorney and/or address letter.
16. ☒ Other items or information: Preliminary Amendment; Copy of the International Search Report (PCT/ISA/210, mailed Nov. 25, 1999); Copy of PCT/RO/101 Request and copy of PCT/RO/146; Copy of the Response to the Invitation to Correct Defects in the International Application including copy of attachments thereto; Computer readable copy of the Sequence Listing (diskette); drawings; Statement Regarding Content of Paper and Computer Readable Copies of the Sequence Listing

NOTE: EXAMINATION OF THE U.S. NATIONAL PHASE APPLICATION SHALL BE BASED ON THE CLAIMS AS ORIGINALLY FILED IN THE INTERNATIONAL APPLICATION, as amended by THE ENCLOSED PRELIMINARY AMENDMENT.

EXPRESS MAIL NO.: EL 28688007045

Date 11/14/00

Assistant Commissioner for Patents

Box PCT  
Washington, D.C. 20231

Atty. Docket 1102805-0034

Serial No. T/A

Sir:

Nat. Phase of PCT/US99/10750

Kindly acknowledge receipt of the accompanying:

- ☒ Specification and Claims 23 pages + 1 pg Abstract  
☐ Oath or Declaration and Power of Attorney ☐ Executed ☐ Not Executed  
☒ 3 Sheets of formal informal drawings

☐ Check for \$ \_\_\_\_\_ (filing fee)

☒ Small entity declaration.

☐ Assignment and Check for \$ \_\_\_\_\_

☒ Request 37 CFR ☐ 1.53c ☐ 1.53d ☐ 1.53b

☐ Petition under 37 CFR 1.136 and Check \$ \_\_\_\_\_

\* Other (specify) Comp. Readable Seq. Listing; Prel. Amend.  
by placing your receiving date stamp hereon and mailing or returning to deliverer.

Atty Hoffmann Due Date 11/15/00  
as noted in trans. letter - PTO - 1290

copy of PCT,  
P. 101 x 146,  
and others  
37 CFR 1.8 ☐  
37 CFR 1.10 ☒  
By Hand

525 Rec'd PCT/PTO 14 NOV 2000

